

UNITED STATES COURT OF APPEALS

DEC 10 2002

TENTH CIRCUIT

PATRICK FISHER
Clerk

PAUL L. BRIGGS,

Plaintiff - Appellant,

v.

MICHAEL R. SIBBETT, member of
the Utah Board of Pardons and Parole;
MICHAEL O. LEAVITT, Governor,
State of Utah; and UTAH STATE
LEGISLATURE,

Defendants - Appellees.

No. 02-4117
D.C. No. 2:01-CV-728-S
(D. Utah)

ORDER AND JUDGMENT*

Before **KELLY, McKAY**, and **MURPHY**, Circuit Judges.

After examining Appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

This is a *pro se* state prisoner 42 U.S.C. § 1983 and § 1985 civil rights appeal. Mr. Briggs sought both monetary damages and injunctive relief in his complaint against Appellees for their alleged disregard of his constitutional right to due process relative to hearings and sentences by the Utah Board of Pardons and Parole. Mr. Briggs contended that the Board set his original parole hearing date without giving him notice or an opportunity to be heard, considered evidence not presented at trial, and conspired to discriminate against him because he is not a member of the Church of Jesus Christ of Latter-day Saints. The district court dismissed the complaint as frivolous and for failure to state a claim. Additionally, the district court held that, pursuant to the Eleventh Amendment, all Defendants are entitled to absolute or qualified immunity from monetary damages. Mr. Briggs appeals to this court.

After a thorough review of the brief and the record, and for substantially the same reasons set forth in the district court's well-reasoned July 22, 2002, Order, we hold that no relief is available to Mr. Briggs pursuant to § 1983 or § 1985.

The decision of the trial court is **AFFIRMED**. Appellant's motion for leave to proceed without prepayment of the appellate filing fee is **GRANTED**. Appellant must continue making partial payments on court fees and costs until such have been paid in full.

Entered for the Court

Monroe G. McKay
Circuit Judge